



Number: 200919052
Release Date: 5/8/2009

Date: February 5, 2009

LEGEND

ORG = Organization name

XX = Date

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Address = address
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ORG
ADDRESS

Employer Identification Number:
Person to Contact/ID Number:
Contact Numbers:

Voice
Fax

CERTIFIED MAIL – RETURN RECEIPT REQUESTED **UIL:501.07-01**

Dear _____ :

In a determination letter dated December 28, 19XX, you were held to be exempt from Federal income tax under section 501(c)(7) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(7) of the Code. Accordingly, your exemption from Federal income tax is revoked effective April 1, 20XX. This is a final adverse determination letter with regard to your status under section 501(c)(7) of the Code.

We previously provided you a report of examination explaining why we believe revocation of your exempt status is necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On November 11, 20XX, you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(7) of the Code.

You have filed taxable returns on Form[s] 1120, U.S. Corporation Income Tax Return, for the year[s] ended March 31, 20XX, March 31, 20XX, and March 31, 20XX with us. For future periods, you are required to file Form 1120 with the appropriate service center indicated in the instructions for the return.

You have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Renee B. Wells
Acting Director, EO Examinations

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1 of 3
Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX03

LEGEND

ORG = Organization name XX = Date Address = address City = city
 XYZ = State ### = number RA = RA

Issue:

Whether or not the ORG is organized and operated exclusively for pleasure, recreation, and other purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder as per Internal Revenue Code section 501(c)(7).

Facts:

Exempt status as a social ORG described in Internal Revenue Code section 501(c)(7) was granted on December 28, 19XX. According to its articles of incorporation the primary purpose of the organization is to promote good fellowship, a fraternal spirit, amateur athletics, and social functions among its members.

During the examination, it was determined that the ORG failed to comply with the record keeping requirements of Revenue Procedure 71-17. Furthermore, the organization advertised the use of its facility to the general public. This is evidenced by a number of documents, information and facts secured during the audit:

- An advertisement in the internet web site states that the ORG of City at Address, City, XYZ. ORG banquet hall is a banquet specialist located in City, XYZ. It also provides goods/services for wedding supplies & service, special events, reunions. Receptions, lighting, lighted parking, dance floor, catering, and bar.
- The local Yellow Pages under "Banquet Halls & Reception Facilities". It advertises as ORG and it has modern banquet facility for all special events such as wedding, receptions, anniversaries, and reunions. It has all amenities available such as catering, bar services, accommodations to 350, dance floor, lighting, lighted private parking, and **highly competitive prices.**
- The local Yellow pages under "Business Listings". It advertises as ORG Address, City and phone number is ###-###-#### and ORG Address, City and phone number is ###-###-####.

ORG received 41% for 20XX03 and 35% for 20XX03 of its gross income from non-member sources such as hall rental, catering, bar, security guard fee, insurance, and forfeited deposit fee. (Excluding investment income)

Law:

Internal Revenue Code section 501(c)(7) defines tax-exempt social clubs as clubs "organized for pleasure, recreation and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings shall inure to the benefit of any private shareholder." Regulation section 1.501(c)(7)-1 goes on to

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Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX03

state in part, "this exemption extends to social and recreational clubs which are supported solely by membership fees, dues, and assessments". Furthermore, "A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, or other products, is not operated exclusively for pleasure, recreation, and other nonprofitable purposes and is not exempt under section 501(a)." Solicitation by advertisement or otherwise for public patronage of it's facilities is prima facie evidence that the club is engaging in a business and is not being operated exclusively for pleasure, recreation, or social purposes."

In 1976, congress changed the above mentioned code section to allow a tax-exempt social club to receive some outside income, (including investment income), and a higher level of income from non-members using it's facilities/services that was previously allowed without losing tax-exempt status. This law change allows tax-exempt social clubs to receive up to 35% of its gross receipts from investment income and receipts from non-members. However, receipts from non-members can not exceed 15% of total receipts.

Revenue ruling 58-589 sets forth the criteria for determining whether an organization qualifies for tax-exempt status per Internal Revenue Code section 501(c)(7). This revenue ruling clearly states that an organization that makes its social and recreational facilities available for use by the general public is engaged in a business and is not exempt under IRC section 501(a). Further, solicitation by advertisement of public patronage of a social club's facilities will have an adverse effect on its tax-exempt status.

Revenue Procedure 71-17 sets forth guidelines for determining the effect gross receipts derived by the general public have on a club's exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code. This Revenue Procedure also describes the records required when nonmembers use a club's facilities and the circumstances under which a host guest relationship will be assumed, which are relevant both for purposes of determining adherence to the exemption requirements and for computing exempt function income under section 512(a)(3) of the Code.

Section 3 of Rev. Proc*71-17 provides a set of assumptions as to the status of nonmembers using club facilities. If nonmember use can be classified into one of the assumptions listed in Rev. Proc 71-17, then the income derived from these individuals will be income from guests and treated as if from members and therefore be classified as exempt function income. Clubs are required to provide detailed records of nonmember use to substantiate the assumptions. See attached copy of Rev. Proc. 71-17.

Section 4 of Rev. Proc 71-17 describes the records that a social club must maintain with respect to the assumption listed in section 3. Section 4.03 of Rev. Proc. 71-17

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 3 of 3
Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX03

describes the books and records that must be maintained when the assumptions contained in Section 3.03 do not apply.

Section 4.04 of Rev. Proc. 71-17 states, "Failure to maintain such records or make them available to the Service for inspection will preclude use of the minimum gross receipts standard and audit assumptions set forth in this Revenue Procedure."

Government's Position:

Based on the large percentage of gross nonmember income to total gross receipts of the ORG, (ie. 41% and 35%), which exceeds the limitation of 15% as set forth by IRC 501(c)(7), and it advertised the use of its facilities to the general public, it is the Government's position that the ORG is no longer operated exclusively for the pleasure and recreation of it's members and is not exempt under section 501(c)(7).

Taxpayer's Position:

According to the tax preparer, RA, the organization will agree with the determination and sign Form 6018-A (Consent to Proposed Action). The organization will prepare and submit the Form 1120 for the tax year ended March 31, 20XX and subsequent tax years.

Conclusion:

It is determined that ORG is not a "social ORG" within the meaning of section 501(c)(7) of the Code, since the non-member income received by the ORG exceeded 15% of the ORG's total gross receipts for 20XX03 and 20XX03. Further, it advertised the use of its facilities to the general public; therefore, it is the evidence that the ORG is engaging in a business and is not being operated exclusively for pleasure, recreation, or social purposes." The determination letter dated December 28, 19XX, which recognized your exemption from Federal income tax under section 501(a) is hereby revoked effective April 1, 20XX. The organization is required to file Federal income tax returns on Form 1120 (U.S. Corporation Income Tax Return) for the tax year ended March 31, 20XX and subsequent tax years.